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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,908	03/09/2001	Elisabeth Lakso	000500-282	7370

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EXAMINER

REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 04/22/2004

121

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,908

Applicant(s)

LAKSO ET AL.

Examiner

Karin M. Reichle

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 16-22, 29, 30 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 16-22, 29, 30 and 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2-9-04 has been entered.

Claim Objections

2. Applicant is advised that should claims 1 and 35 be found allowable, claims 2 and 36 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

3. Claims 2-3 and 36-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 36 appear to be redundant because claims 1 and 35 already claim the component consisting of 100% polyethylene. Therefore it is unclear what applicant is trying to

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claim in claims 2 and 36, i.e. is Applicant trying to claim a component which is 100% polyethene as already claimed in the claim from which it depends or something else? If the former, it is noted that such dependent claim also does not further limit the claim from which it depends. With regard to claims 3 and 37, it is unclear what range of polyethene Applicant is trying to claim, i.e. using 100% polyethene as a component as claimed in the independent claim or using 50 to 99% polyethene as a component as claimed in the dependent claim? If the latter, it is noted that such dependent claim does not further limit the claim it depends from but rather broadens it.

Claim Language Interpretation

4. The claim terminology is "renewable raw material" is defined as set forth on page 3, lines 5-6 of the instant specification. Also note lines 6-13 of that same page. With regard to the terminology "component of an absorbent article" note page 5, lines 4-6 and 12-15. With regard to the terminology "component of an absorbent article" note the paragraph bridging pages 5-6. With regard to claims 1-7, 17, and 34-37 also see page 10, lines 14-16 of the 2-9-04 response.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-7, 16-22, 29-30 and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants disclosure, Barrocas '179, Toms '679, Cargill '941, Klemp '669, Widlund '672, Sigl '550 and the definition of "polyethylenes", first paragraph, in the Materials Handbook.

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In regard to the claims, Applicants' disclosure at page 5, lines 10-15, page 10, lines 1-2, and page 5, lines 16-19, as well as Toms '679 at col. 1, lines 23-27 and col. 11, lines 54-57, Cargill at Description of the Prior Art, Klemp '669 at col. 4, lines 17-35, Widlund '672 at col. 1, lines 43-53, and col. 3, lines 7-13, Sigl '550 at col. 1, lines 54-60 and col. 3, lines 34-48 and the definition of "polyethylenes", first paragraph, admits that it is known to produce components of absorbent articles, such as liquid impermeable backing sheets, topsheets, waist elastics and fastener devices, i.e. landing strips, or packages from material produced from polyethene, also known as polyethylene, derived wholly or in part from petroleum products, i.e. non-renewable materials. Applicants' disclosure at the paragraph bridging pages 14-15, page 16, first full paragraph, page 17, third full paragraph and page 18, line 10, as well as Toms '679 at col. 9, lines 15-66, Cargill at Description of the Prior Art and the definition of "polyethylenes", first paragraph, admits that manufacture of a film or material, including those of polyethene, components from that film or material, absorbent articles from the components, film or material, alone or with other components, prepacking, manufacture of the prepack or package and methods of manufacture, including those of polyethene, are also known. Applicants' disclosure at page 9, lines 6-17 and page 16, lines 8-17, as well as Barrocas et al '179 at col. 1, lines 4-34, admits it is known to produce ethane from ethanol, a renewable material, and to produce polyethene from such ethane. Therefore, the invention of the claims is known except for, and as set forth by Applicants at page 9, line 17-page 10, line 4, the use of renewable raw materials rather than non-renewable raw materials in the manufacture of the polyethene used in the field of application, i.e. absorbent articles or packaging materials. This invention as set forth by Applicants at page 3, lines 2-4 is more environmental friendly. In other words, the invention is using a known material, i.e.

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polythene made from renewable materials, and processing it as known to manufacture components in a field of application instead of using the same known material, but such material made from nonrenewable raw materials, and processing it the same to manufacture the same components in that same field of application for the same reason the prior art created the known polyethene material made from renewable materials rather than nonrenewable materials in the first place, i.e. more environmentally friendly. Furthermore, the definition of "polyethylenes", first paragraph, suggests that it is known to use the material polyethylene, i.e. polyethene, in multiple fields of application because the advantages or benefits of such use in one application field also apply in the other application fields. Therefore, from the Applicants admissions as to what is known and the prior art, to use the known polyethene made from renewable materials in the applicatin field of absorbent articles and packages instead of the previously used polyethene made from non-renewable materials would be obvious to one of ordinary skill in the art in view of the recognition that such would also provide the same advantage or benefit of being more environmentally friendly in those application fields.

Response to Arguments

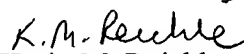
7. Applicant's remarks with regard to the prior art rejection have been considered but are deemed not persuasive for the reasons set forth in the rejection. It is noted that claims 16, 18-22, 29-30 and 38 do not require the film to be formed solely of polyethene and thereby such could include other additions and the film could be biodegradeable.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 308-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
April 15, 2004